

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Cleo Baylor; Remedios Baylor,)
)
) C/A No.: 8:13-1660-GRA
Plaintiff,)
)
)
v.)
)
) **ORDER**
Attorney Kenneth W. Fish; Diane)
Hayes, d/b/a Diane Hayes Greenwood)
County Assessor's Office; Angela)
Woodhurst, d/b/a Angela Woodhurst,)
CCCP and GS; Greenwood County;)
Citicorp Bank, FSB, n/k/a Citibank;)
Curtis G. Clark, Special Referee)
Greenwood County; Lillie Kate)
Womack; Katherine Clark; Transit)
Leasing; Richard R. Bell; Country Bank;)
Green Bank and Trust; Moss &)
Associates, Attorneys, P.A.; Save Your)
Home Law Center; Delfini Glover; Riley,)
Pope & Laney, LLC; Sheriff Tony Davis,)
Greenwood County Sheriff Department;)
Dr. Eugene Gay; Attorney Sandra L.)
Burr, Burr & Associates, LLC; Attorney)
Brett F. Kline, Burr & Associates, LLC;)
Robin Murdock; Beverly A. Grimes;)
Ford Motor Credit Company; Chase)
Home Finance, LLC; Gerald and Garcia)
Glur,)
)
Defendants.)
_____)

This matter comes before the Court for review of United States Magistrate Judge Kevin McDonald's Report and Recommendation made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02(B)(2)(d) DSC. Plaintiffs, proceeding as *pro se* litigants, filed this civil action on June 18, 2013. ECF No. 1. Magistrate Judge

McDonald filed a Proper Form Order on July 8, 2013, requiring that the Plaintiffs' complaint be put in an appropriate form for service. ECF No. 8.

Under established procedure in this judicial district, Magistrate Judge McDonald made a careful review of the *pro se* complaint pursuant to the procedural provisions of 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) DSC. Magistrate Judge McDonald recommends that this Court dismiss Plaintiffs' case without prejudice under Rule 41 of the Federal Rules of Civil Procedure for failure to comply with the previous order directing the Plaintiffs to put their complaint in proper form, and for failure to prosecute. ECF No. 13. Plaintiffs filed their own *pro se* Motion to Dismiss and request for a refund of filing fees on August 21, 2013. ECF No. 17. For the reasons discussed herein, this Court declines to adopt the Magistrate Judge's Report and Recommendation and grants Plaintiffs' Motion to Dismiss, but denies Plaintiffs' refund request.

Standard of Review

Plaintiff brings this claim *pro se*. This Court is required to construe *pro se* pleadings liberally. Such pleadings are held to a less stringent standard than those drafted by attorneys. *Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978). This Court is charged with liberally construing a pleading filed by a *pro se* litigant to allow for the development of a potentially meritorious claim. *Boag v. MacDougall*, 454 U.S. 364, 365 (1982). A court may not construct the plaintiff's legal arguments for him, *Small v. Endicott*, 998 F.2d 411 (7th Cir. 1993), nor is a district court required to recognize "obscure or extravagant claims defying the most concerted efforts to

unravel them." *Beaudett v. City of Hampton*, 775 F.2d 1274, 1277 (4th Cir.1985), cert. denied, 475 U.S. 1088 (1986).

Discussion

Magistrate Judge McDonald recommends dismissing the Plaintiffs' case for failure to prosecute and for failure to comply with the Proper Form Order. See Report and Recommendation, ECF No. 13.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and this Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). This Court may also "receive further evidence or recommit the matter to the magistrate with instructions." *Id.* "The failure to file objections to the report and recommendation waives any further right to appeal." *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987); see *Carter v. Pritchard*, 34 F. App'x 108, 108 (4th Cir. 2002) (per curiam). Furthermore, in the absence of specific objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983).

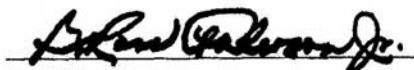
In this case, August 26, 2013 was the deadline for filing objections. Prior to this deadline, however, Plaintiffs filed a Motion to Dismiss their complaint and additionally requested that the Court refund \$400.00 in filing fees. ECF No. 17. After

reviewing Plaintiffs' Motion to Dismiss and the record, the Court finds that Plaintiffs' request to dismiss their case appears to be appropriate under the circumstances. However, the Court declines to refund Plaintiffs' filing fee of \$400.00.

IT IS THEREFORE ORDERED that Plaintiffs' Motion to Dismiss is GRANTED.

However, Plaintiffs' request for a refund of \$400.00 in filing fees is DENIED.

IT IS SO ORDERED.



G. Ross Anderson, Jr.
Senior United States District Judge

August 23, 2013
Anderson, South Carolina